

SOUTHERN DISTRICT OF TEXAS  
FEB 26 2003  
MICHAEL A. PETERSON, CLERK

**UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

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MARK NEWBY, et al.

Plaintiffs,

vs.

ENRON CORPORATION, et al.

Defendants

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Civil Action No. H-01-3624  
And Consolidated Cases

ABBEY NATIONAL TREASURY  
SERVICES plc,

Plaintiff,

vs.

CREDIT SUISSE FIRST BOSTON  
CORPORATION, et al.

Defendants

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Civil Action No. H-02-3869

**CERTAIN DEFENDANTS' RESPONSE TO PLAINTIFF'S MOTION  
TO ENLARGE TIME TO SERVE THE SUMMONSES, COMPLAINT  
AND AMENDED COMPLAINT IN THIS ACTION**

Defendants Credit Suisse First Boston Corporation, Credit Suisse First Boston (USA), Inc., Credit Suisse First Boston, Inc., J.P. Morgan Chase & Co., J.P. Morgan Securities Inc. (formerly known as Chase Securities Inc.), J.P. Morgan Securities Holding Inc., J.P. Morgan Investment Corp., Bank of America Corporation, Banc of America Securities LLC, Canadian Imperial Bank of Commerce, CIBC Inc., CIBC WorldMarkets Corp., Deutsche Bank AG, Deutsche Banc Alex. Brown Inc., ABN AMRO Incorporated, successor to named defendant ABN AMRO Securities (USA) Inc., and ABN AMRO Bank N.V. submit this response to Plaintiff Abbey National Treasury Services plc's ("Plaintiff") motion to enlarge time to serve the summonses, complaint and amended complaint in this action.<sup>1</sup>

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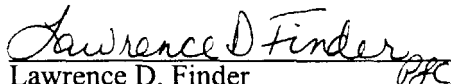
<sup>1</sup> Defendants submit this response without any waiver of their defenses, including but not limited to personal jurisdiction and insufficiency of service of process.

#1256

Plaintiff fails to mention that it is pursuing an identical complaint with identical claims against the same defendants in the United States District Court for the Southern District of New York. See Abbey National Treasury Services plc v. Credit Suisse First Boston Corp., et al., 02-CV-8137 (TPG) (S.D.N.Y.) ("the New York action"). Although Plaintiff and certain Defendants have filed notices with the multi-district litigation panel to have the New York action transferred to this Court for pretrial purposes, Plaintiff has sought and obtained the same extension it seeks here for service of the amended complaint in the New York action. We respectfully submit that Plaintiff should choose to pursue one action or the other, and should not be permitted to continue duplicate service of identical complaints in two actions. See Hardwick v. Brinson, 523 F.2d 798, 800 (5th Cir. 1975) (requiring plaintiff to pursue only one of his three actions because "plaintiff is entitled to have his claim considered but by only one of the courts he had selected").

Dated: February 26, 2003

Respectfully submitted,



Lawrence D. Finder  
Southern Dist. Id. No. 602  
Texas Bar No. 07007200  
HAYNES AND BOONE, LLP  
1000 Louisiana Street, Suite 4300  
Houston, TX 77002-5012  
Telephone: (713) 547-2000  
Telecopier: (713) 547-2600

ATTORNEY-IN-CHARGE FOR CREDIT SUISSE  
FIRST BOSTON CORP., CREDIT SUISSE FIRST  
BOSTON INC., AND CREDIT SUISSE FIRST  
BOSTON (USA) INC.